1990

Arts, Humanities, and Museums Amendments: Reports with Minority Views (1990): Report 03

Amendment to H.R 5769 (H.Amdt 864 & 865)
(Became PL 101-512)

trespassing. Surely, the gentleman does not mean to imply that.

Although many studies have been conducted which provide evidence that the attendant costs of raising livestock on public lands is the same or higher than on private lands, I do not stand here today to suggest that the current grazing fee might not use some modifications. In fact, I have been told as much by many ranchers. However, bringing this issue up on an appropriations bill, without the proper committee hearing process is the wrong approach. And, the reason it is being done is that the votes do not exist in the committee to report this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. SYNAR].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKEEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 251, noes 155, answered "present" 1, not voting 26, as follows:

[Roll No. 460]

AYES—251

Ackerman	Dymally	Kostmayer
Alexander	Eckart	LaFalce
Anderson	Edwards (CA)	Lancaster
Andrews	English	Lantos
Annunzio	Erdreich	Leach (IA)
Anthony	Evans	Lehman (FL)
Applegate	Fascell	Lent
Aspin	Feighan	Levin (MI)
Atkins	Fish	Levine (CA)
Barnard	Flake	Lewis (GA)
Bartlett	Flippo	Lipinski
Bates	Foglietta	Lloyd
Bellenson	Ford (MI)	Lowey (NY)
Bennett	Ford (TN)	Luken, Thomas
Bereuter	Frank	Machtley
Berman	Gaydos	Manton
Bevill	Gejdenson	Markey
Boehlert	Gephardt	Martinez
Bonior	Geren	Matsui
Borski	Gibbons	Mavroules
Boucher	Gilman	Mazzoli
Brooks	Glickman	McCollum
Broomfield	Gonzalez	McCurdy
Browder	Gordon	McDade
Bruce	Gradison	McDermott
Bryant	Gray	McGrath
Bustamante	Green	McHugh
Byron	Guarini	McMillan (NC)
Campbell (CA)	Gunderson	McMillen (MD)
Cardin	Hall (OH)	McNulty
Carper	Hamilton	Meyers
Carr	Harris	Mfume
Chandler	Hayes (IL)	Miller (CA)
Clarke	Hefner	Miller (OH)
Clay	Henry	Miller (WA)
Clement	Hertel	Mineta
Clinger	Hoagland	Moakley
Coble	Hochbrueckner	Morella
Coleman (TX)	Horton	Mrazek
Collins	Hoyer	Murphy
Conte	Huckaby	Neal (MA)
Conyers	Hughes	Neal (NC)
Cooper	Hutto	Nelson
Costello	Jacobs	Nowak
Cox	James	Oakar
Coyne	Jenkins	Oberstar
Darden	Johnson (CT)	Obey
Dellums	Johnston	Ortiz
Derrick	Jones (GA)	Owens (NY)
DeWine	Jontz	Pallone
Dicks	Kanjorski	Panetta
Dingell	Kaptur	Patterson
Dixon	Kastenmeier	Payne (NJ)
Donnelly	Kennedy	Payne (VA)
Downey	Kennelly	Pease
Duncan	Kildee	Penny
Durbin	Kleczka	Petri
Dwyer	Kolter	Pickett
Pickle	Schumer	Tauke
Porter	Serrano	Tauzin
Poshard	Sharp	Taylor
Price	Shays	Torres
Rahall	Sikorski	Torricelli
Rangel	Sisisky	Towns
Ravenel	Skaggs	Traficant
Regula	Skelton	Unsoeld
Ridge	Slaughter (NY)	Upton
Rinaldo	Smith (FL)	Valentine
Ritter	Smith (NJ)	Vento
Roe	Smith, Robert (NH)	Visclosky
Rohrabacher	Snowe	Volkmer
Ros-Lehtinen	Solarz	Walgren
Rostenkowski	Solomon	Walker
Roukema	Spence	Washington
Roybal	Spratt	Waxman
Russo	Stark	Weiss
Sabo	Stearns	Weldon
Sangmeister	Stokes	Wheat
Savage	Studds	Wise
Sawyer	Swift	Wolpe
Saxton	Synar	Wyden
Scheuer	Tallon	Yates
Schneider	Tanner	Yatron
Schroeder		Young (FL)

NOES—155

Archer	Hancock	Pashayan
Armey	Hansen	Paxon
AuCoin	Hastert	Perkins
Baker	Hatcher	Pursell
Ballenger	Hayes (LA)	Quillen
Barton	Hefley	Rhodes
Bateman	Herger	Richardson
Bentley	Hiler	Roberts
Bilbray	Holloway	Robinson
Bilirakis	Hopkins	Rogers
Boggs	Houghton	Rose
Bosco	Hubbard	Roth
Brown (CO)	Hunter	Saiki
Buechner	Hyde	Sarpalius
Bunning	Inhofe	Schaefer
Burton	Johnson (SD)	Schiff
Callahan	Jones (NC)	Schulze
Campbell (CO)	Kasich	Sensenbrenner
Coleman (MO)	Kolbe	Shaw
Combest	Kyl	Shumway
Condit	Lagomarsino	Shuster
Coughlin	Leath (TX)	Skeen
Courter	Lehman (CA)	Slattery
Craig	Lewis (CA)	Slaughter (VA)
Crane	Lewis (FL)	Smith (IA)
Dannemeyer	Lightfoot	Smith (NE)
Davis	Livingston	Smith (TX)
de la Garza	Long	Smith (VT)
DeFazio	Lowery (CA)	Smith, Robert (OR)
DeLay	Lukens, Donald	Staggers
Dickinson	Madigan	Stallings
Dorgan (ND)	Marlenee	Stangeland
Dornan (CA)	Martin (NY)	Stenholm
Dreier	McCandless	Stump
Dyson	McCrery	Sundquist
Edwards (OK)	McEwen	Thomas (CA)
Emerson	Michel	Thomas (GA)
Espy	Molinari	Thomas (WY)
Fawell	Mollohan	Traxler
Fields	Montgomery	Udall
Frenzel	Moorhead	Vander Jagt
Frost	Morrison (WA)	Vucanovich
Gallegly	Murtha	Walsh
Gekas	Myers	Watkins
Gillmor	Nagle	Weber
Gingrich	Natcher	Whittaker
Goodling	Nielson	Whitten
Goss	Olin	Williams
Grandy	Oxley	Wilson
Grant	Packard	Wolf
Hall (TX)	Parker	Wylie
Hammerschmidt	Parris	

ANSWERED "PRESENT"—1

Owens (UT)

NOT VOTING—26

Billey	Fazio	Morrison (CT)
Boxer	Gallo	Pelosi
Brennan	Hawkins	Ray
Brown (CA)	Ireland	Rowland (CT)
Chapman	Laughlin	Rowland (GA)
Crockett	Martin (IL)	Schuette
Douglas	McCloskey	Smith, Denny (OR)
Early	Mink	Young (AK)
Engel	Moody	

□ 1912

The Clerk announced the following pair:

On this vote:

Mrs. Boxer for, with Mr. Denny Smith against.

Mr. HUNTER changed his vote from "aye" to "no."

Mr. DICKS, Mr. HUTTO, and Mrs. BYRON changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT OF REPUBLICAN CONFERENCE ON TOMORROW

(By unanimous consent, Mr. LEWIS of California was allowed to speak out of order.)

Mr. LEWIS of California. Mr. Chairman, I take this moment to indicate to the Members on this side of the aisle that there will be a Republican conference tomorrow morning in Cannon Caucus Room at 9 a.m. That is Cannon Caucus, at 9 a.m.

The CHAIRMAN. Are there additional amendments to title III?

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REGULA: On page 93, after line 23, add the following new section:

"SEC. 318. (a) The Chairperson of the National Endowment for the Arts and the National Council for the Arts, in making judgments of artistic excellence, shall ensure that projects supported by an award, grant, loan or other form of support provided by the National Endowment for the Arts (1) are sensitive to the nature of public sponsorship; (2) take into account general standards of decency; (3) are subject to the conditions of public accountability that govern the use of public money; (4) reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups; and (5) are appropriate for a general audience so that all members of the public may have access to art funded under the program.

"(b) None of the funds made available by this Act shall be used by the National Endowment for the Arts to finance or support any award, grant, loan, or other form of support that is obscene under the standards of *Miller* v. *California*, 413 U.S. 15, 24 (1973) or indecent as the term is used in *Federal Communications Commission* v. *Pacifica Foundation*," 438 U.S. 726, 732 (1978).".

The CHAIRMAN. Pursuant to House Resolution 505, the amendment is not subject to amendment, except for a substitute, consisting of the text of H.R. 4835, as passed the House, by and if offered by the gentleman from Montana [Mr. WILLIAMS] or his designee.

The gentleman from Ohio [Mr. REGULA] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Ohio [Mr. REGULA].

PARLIAMENTARY INQUIRY

Mr. YATES. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. YATES. Mr. Chairman, the Clerk, when he read subsection (b), read it to read, "None of the funds made available by this Act shall be used by the National Endowment. * * *" The copy of the amendment, as filed, used the words "may be used."

The CHAIRMAN. The Chair will advise the gentleman that the word is "may."

Mr. YATES. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. REGULA].

The correct text of the amendment, as filed, is as follows:

Amendment offered by Mr. REGULA: On page 93, after line 23, add the following new section:

"SEC. 318. (a) The Chairperson of the National Endowment for the Arts and the National Council for the Arts, in making judgments of artistic excellence, shall ensure that projects supported by an award, grant, loan or other form of support provided by the National Endowment for the Arts (1) are sensitive to the nature of public sponsorship; (2) take into account general standards of decency; (3) are subject to the conditions of public accountability that govern the use of public money; (4) reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups; and (5) are appropriate for a general audience, so that all members of the public may have access to art funded under the program.

"(b) None of the funds made available by this Act may be used by the National Endowment for the Arts to finance or support any award, grant, loan, or other form of support that is obscene under the standards of *Miller* v. *California*, 413 U.S. 15, 24 (1973) or indecent as the term is used in *Federal Communications Commission* v. *Pacifica Foundation*, 438 U.S. 726, 732 (1978).".

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

(Mr. REGULA asked and was given permission to revise and extend his remarks.)

Mr. REGULA. Mr. Chairman and members of the Committee, this very simply is an amendment to ensure that the $180 million provided in this bill for the National Endowment for the Arts will not be used to fund obscenity, indecency, or items that would be offensive to the American public.

I recognize that it is difficult to establish those standards, and for that reason, the amendment provides a reference to cases decided by the U.S. Supreme Court in the case of obscenity, and indecency.

The real issue here is accountability. I hope in this language to force accountability on the Chairman of the National Endowment for the Arts and the council who are jointly responsible, in part, for funding projects.

That National Endowment for the Arts can do some great things, and they have, in sponsoring ballets, symphonies, string ensembles that travel to the schools, education programs. Many of us saw what the National Endowment for the Humanities did the other night in the Civil War series, how effective these programs can be. This, of course, the Civil War series, was sponsored by the NEH.

□ 1920

I think during the next 12 months the National Endowment for the Arts has a very great responsibility: To gain and restore the confidence of the American public in what they do, and that to give the public accountability and assurance that the $180 million of taxpayer money that is spent by NEA will be used wisely.

The language in my amendment is designed to achieve that degree of accountability. All Members are aware of some of the things that have been sponsored by NEA that have been found to be offensive to the American public, that have brought serious questions of credibility for NEA funding. I therefore think in many respects, by adopting language of this type, we are doing the NEA a favor because we are saying that this Agency can do an effective job, provided they exercise good judgment on what kind of projects they sponsor. We know so well from the experience of the Pentagon, that while they may do some wonderful things, and have in terms of defending this country, it is just a few bad apples that they have been responsible for that were mentioned on the floor the other day, such as coffee makers. The same thing happens with NEA. If they fund projects that are offensive, it erodes the public support.

This is very important because NEA becomes a yardstick by which the private sector often measures the value of projects. The foundations that provide a lot of funding for the arts programs around this Nation will often say, "Has the NEA given this project its support?" As a matter of fact, for every dollar that is spent in NEA funds we have $3 of private sector money that goes into the mix. Many times people say to me, "Well, the United States does not do as much for the arts as does France or Great Britain or Germany." Well, of course it is because we follow a different technique in our country. In those countries, practically 100 percent, or certainly a large percentage of what they get in support comes from the public sector. In the United States, we made a decision that we want the private sector to participate in funding the cultural heritage of this Nation. That is quite evident from the Tax Code because we provide deductibility for contributions to museums, to art projects, to all types of things of this nature. Of course, that is, in so doing, we keep the private sector involved.

Nevertheless, the National Endowment for the Arts is a great responsibility because they set the standard to some extent. Again, I emphasize that getting the private sector support is often predicated upon the endorsement of a project by NEA. Therefore, they bear a great responsibility to be accountable, and if they have a great responsibility to be credible so that the foundations that the individuals, that the wealthy donors that oftentimes give some of the great artworks to public museums, will feel confident that when they follow the lead of NEA, that it is being done in an effective way.

The question comes up as to whether there should be a different standard for public funds versus private funds. As all Members are aware, we in last year's legislation, provided for a commission to look at this problem and the Commission came back with recommendations. They have completed their review, and by and large I think they have done an excellent and thoughtful job of reviewing the problem. However, I want to point out that in completing their review, they conclude emphatically that the standard is necessarily different between public and private funding. The Commission went on to emphasize that the arts belong to all of the American people, and that is essentially a quote right out of the Commission report, and not only to those who benefit directly from the agency. I cannot emphasize that enough, that the arts program, the NEA programs belong to all the American people. Therefore, we need to develop standards that will give all of the people confidence in the judgments. The Commission went on to conclude that the Endowment is not setting policy and making grants, adequately meeting its public responsibilities at the present time. That is the Commission saying that, that they are not meeting those responsibilities, and it is our objective in this language to give them a measuring yardstick so that they can meet those responsibilities. The Commission made recommendations for substantive changes in the grant-making procedures which, when implemented, should resolve the problems that have plagued the agency for over a year.

I want to say, to the credit of the Williams-Coleman bill, that many of the Commission's recommendations are embodied, in a large measure, in that legislation, which passed this House by a rather large margin last week. Unfortunately, the time left in this session is relatively short, and one of the reasons that I feel that we need languge in the appropriations bill is because we know this bill is going to get signed. It has to be signed in order to fund the Department of Interior and the Forest Service and so on. In this legislation will be $180 million for the National Endowment for the Arts. Therefore, it is absolutely essential that there be language in the bill, controlling through content restrictions, what will be funded with that $180 million. This is the reason for the amendment that I have offered today.

Now, some will raise the question of constitutionality. I think in the Com-

mission report they talked to that, in some respects, and they say from the Commission report, "The Endowment, in making grants should act to strengthen, not to weaken, public confidence in its prudence and sensitivity as a steward of public funds. If the Endowment loses the trust and support of the American people it will have failed." One of the lawyers that testified before the independent commission had this to say in his testimony in front of the Commission:

> The key consideration for purposes of constitutional analysis is that the grants it makes are selective. Congress does not purport to be subsidizing all art, but only the best art.

That is an important statement.

> Artists who do not receive grants are not being singled out or deprived of their generally available benefit, rather those who receive grants are singled out and the imprimatur of government approval is placed upon their work. Indeed, this symbolic recognition is one of the intended effects of the program.

I think it addresses very clearly the constitutional issue, that when we are dealing with public funds we have a different standard of accountability than when dealing with private funds. That is the thrust of the amendment I am proposing. That is to say, if we are spending $180 million of the taxpayers' money, there has to be accountability and a standard of content that is above that of private, simply because we are dealing with something that the public has a rightful interest in, as opposed to private funds where the individual makes a decision.

Now, we will have an amendment to substitute the language of the Williams-Coleman bill for the amendment that I have offered today. I have a problem with that, but I do not make the rules around here. I think the difficulty is, that if we substitute Williams-Coleman, in effect, we are putting an authorization bill into an appropriations bill en toto. Now, we have had a lot of debate here earlier about the question of authorization versus appropriation, the question raised that we are indeed usurping the authorizing committees' area of responsibility. Yet here we are preparing to take an authorization bill in total, every line, every word, every comma, and put it in an appropriation bill, I think it will create great problems in conference simply because the Senate has no comparable situation. We go to conference and the members of the Subcommittee on the Committee on Appropriations will be the conference to deal with a Senate appropriations bill without all the authorizing language. Therefore, we are in an apple and oranges situation.

□ 1930

I do not mean by this to say that the Williams-Coleman bill is not a good bill. I think it has a lot of merit, but I think the procedure here is wrong. The Williams-Coleman bill should go to conference with the counterpart committee from the Senate. They should try to address the differences, put together a final authorization bill and get it down to the White House and signed before the end of this legislative session. That would be the proper way to do it, and therefore our appropriation bill would be bound by the authorization. We are being asked here to appropriate without an authorization. Therefore, I think it is vital that the bill get to the White House.

So I have a problem with the mechanics here. I think it is bad procedure to use an authorizing bill and to put it completely in an appropriation bill.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I want to say on behalf of all the Members of the House, and quite frankly of the American public at large, the debt of gratitude we owe to the gentleman from Ohio who has worked very hard to help us approach this entire issue reasonably. His involvement in this issue goes back to last year when, along with the distingusihed chairman of the committee, the gentleman from Illinois [Mr. YATES], they sought to address this issue constructively and, as you know, were ruled down on a procedural motion.

I want to say thank you because I think we are indebted for the kind of leadership we have had from the gentleman from Ohio, who has tried to balance legitimate public concerns in terms of the integrity of the National Endowment for the Arts, while at the same time being supportive of the role and mission of that agency. That has been a very hard line to walk, and the gentleman has been very firm on that.

Now, make no mistake that the issue involved before us in this. We have passed an authorization bill that the House has approved by a ratio of roughly 6 to 1, overwhelmingly, in which the issues that this gentleman has fought for have been resolved in great substance, certainly to my satisfaction and I think, quite frankly, to the gentleman's satisfaction as well.

The problem before us is that the authorization bill may not make it through the conference process. The Senate may not even pass an authorization bill. Therefore, it is very important that we protect ourselves, as it were, in seeing that the issue is raised in the appropriation process.

There are two approaches before us. There is the language of the gentleman from Ohio [Mr. REGULA] and there is also what I understand will be a substitute. I will support the substitute. Should the substitute fail, I will support the gentleman from Ohio [Mr. REGULA], but I think we do, all of us, Republican and Democrat alike, want to express our appreciation for the kind of leadership that the gentleman has given us on this, because it has been responsible, while at the same time forcing the issue in a way which responds to the concerns of the American public, and I want to commend the gentleman.

Mr. REGULA. Mr. Chairman, I thank the gentleman, and I would say that he has been extremely helpful in drafting the language. Much of what is in the amendment that I have proposed is language proposed initially by the gentleman from Michigan [Mr. HENRY].

We have a common interest, and that is that we want to see the NEA maintained as a strong, credible institution, because the private sector depends so heavily on it for leadership, and because preservation of our cultural heritage is an important thing that we all want to accomplish.

The CHAIRMAN. Is the gentleman from Illinois [Mr. YATES] opposed to the amendment of the gentleman from Ohio?

Mr. YATES. I am opposed, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 15 minutes.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Ohio [Mr. REGULA] is one of my very good friends in the Congress. Over the years we have worked together on various issues and problems that concern the Appropriations Subcommittee of the Committee on Appropriations, and usually we are in agreement. On this issue, we have a very great disagreement.

In offering this amendment which the gentleman proposes to establish new grant-making standards for the NEA, I think the gentleman is totally wrong.

First let me say that the House has already spent a whole day arguing and fighting over what should be proper grant-making standards for the NEA and for the NEH. The subcommittee of the Education and Labor Committee which drafted the bill worked a whole year on it, and their work culminated in the vote that took place last week in the House of Representatives.

Grant-making standards for the NEA that they have labored over for the whole year were presented to the House and approved by the House. Now the gentleman from Ohio wants to throw all that work away and to establish new standards of grant-making for the NEA, which in great measure are totally different than those approved by the legislative committee and by the House.

If the gentleman has his way, if his amendment is approved, if the standards that he sets up in his amendment become the guidelines for grant-making for the NEA, there will be two sets of standards that will have been approved by the House; those approved in the Williams-Coleman bill last week and those approved in the amendment of the gentleman from Ohio [Mr. REGULA], totally different

standards. How is the NEA to be administered?

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I am glad to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, putting aside the merits of the gentleman's amendment for the moment, is he correct in saying that the whole thing becomes mixed up if the authorization portion of the Williams-Coleman enters into this? Does the gentleman agree that Williams-Coleman would be in order, aside from the merits of the Regula amendment?

Mr. YATES. Ordinarily I am opposed to the introduction of legislative bills as a part of an appropriation bill. The gentleman from Montana [Mr. WILLIAMS] is offering his bill because he believes there is a very strong possibility, as has been pointed out by the gentleman from Ohio, there is a strong possibility the Senate may not take up that legislative bill. It will. It has to take up an appropriations bill.

So if the Williams-Coleman bill is to become law, they seek to protect that possibility by making it a part of this appropriations bill.

Mr. GEKAS. What I am actually asking, Mr. Chairman, I am in a dilemma. I supported the Williams-Coleman substitute.

Mr. YATES. So did I.

Mr. GEKAS. I do want, though, to allow the Regula amendment to have a full debate and vote on its own merits.

I am asking whether the chairman is willing to relegate that to the debate alone on its merits, or is he going to support the offering of the Williams-Coleman amendment?

Mr. YATES. I would point out to the gentleman that there is a full debate on the Regula amendment. The Rules Committee allotted 15 minutes to the gentleman from Ohio [Mr. REGULA] and 15 minutes to me as a full debate, and we are taking that now.

Mr. GEKAS. I understand that, but the gentleman does not oppose the Williams-Coleman amendment?

Mr. YATES. I voted for it, I will say to the gentleman.

Mr. GEKAS. We all did. We support it here, even though it violates the rule.

Mr. YATES. I think we all have supported it here, because this bill becomes a vehicle for its passage, in all probability.

Mr. GEKAS. I thank the gentleman. I just wondered about the mix-up of the procedures.

Mr. YATES. If I may return to the question of the Regula amendment, Mr. Chairman, the guidelines that he cites, that he lists, are not only unconstitutional in a number of respects, they are so vague as to be valueless.

Take a look at his standards. He uses the term "general standards of decency." What are general standards of decency which he requires to be taken into consideration by the NEA in making its grants?

He also requires that the grants take into consideration the fact that they may become viewed by a general audience. Does that mean that a general audience may consist of children in that respect, and must the grants that are approved establish as standards those that are applicable and fitting for children?

□ 1940

Obviously that is a standard that would be intolerable.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding to me.

Is not one of the problems also that whereas the Williams/Coleman substitute provides for the obscenity determination to be made by the courts, in the Regula amendment the determination would have to be made by NEA and that in itself would be unconstitutional, an abrogation of first amendment rights.

Mr. YATES. The gentleman is correct. Let me point out, as my third point, in furthering what the gentleman has just said, the gentleman's amendment is in conflict with itself. And I say that in this respect: His amendment requires following the guidelines for determining the obscenity standards established in the Supreme Court case of Miller versus California.

When you look at the standards established by the gentleman, it speaks of a general standard for decency. There are no general standards for decency in the United States.

The standards vary from State to State. That was pointed out in the Miller case.

Let me read from the decision in the Miller case from the opinion of Chief Justice Burger, who wrote the majority opinion. He said, "It is neither realistically nor constitutionally sound to read the first amendment as requiring that the people of Maine or Mississippi accept the public depiction of conduct," the public depiction of conduct, "which is found tolerable in Las Vegas or New York City."

The standards are different, says the Judge, in Maine or Mississippi, from New York or Las Vegas. He says we have to recognize that.

Then he goes on to say, "The people in different States vary in their tastes and in their attitudes, and this diversity is not to be strangled by the absolutism of imposed uniformity." And that is exactly what the gentleman's amendment does. It imposes a standard of uniformity. General standards of decency are an imposition.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio, of course.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, the public-private school is an example. If it is a public school, there are standards of uniformity; whereas in a private school, where the people pay themselves, they make a lot of choices in the way that school program is constructed.

I think the big difference here is that in one instance it is public money and the Constitution says Congress shall appropriate and therefore it has accountability. The first amendment addresses the rights of individuals if they are using their own private money.

Mr. YATES. Mr. Chairman, the difference between the gentleman's amendment and the Williams-Coleman bill is essentially a difference in what is needed for standards of grantmaking. The gentleman from Ohio believes that there ought to be content restriction. What an artist can paint, what he should paint has been the thrust and the hallmark of a totalitarian country, not the United States of America. Like the Soviet Union, for example; I was reading from the Post the other day a review of the exhibition now taking place at the National Art Gallery.

This is what a review by Hank Burchard said. He says:

> Obscene art goes on open display Sunday at the National Gallery. Kazimir Malevich's paintings and drawings are not only wholly without redeeming social value, they tend to disturb the peace, corrupt youth and endanger this country.

This at the National Gallery. Then he goes on to say:

> This is the considered judgment of one of the 20th century's most influential art critics, Josef Stalin. The 170 works to be shown in the East Building were suppressed in the 1930's by Stalin's order, ending the career of one of the 20th century's most innovative artists. Probably the only reason Malevich didn't end up in Siberia is that he died in bed before the thought police could get around to him.

Content restriction? Our atmosphere is one of freedom, not of content restriction.

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Michigan.

Mr. CARR. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman is correct in opposing this particular amendment. The gentleman from Ohio is a good friend of us all, and I know he means well, but I think this amendment is going to lead to a lot of constipated thinking if not a lot of litigation.

These are not standards, Mr. Chairman, these are platitudes, but they could form a cause of action by any group dissatisfied with anything in the arts community to literally close museums around the country.

It says in this amendment:

The chairperson of the National Endowment for the Arts shall insure that projects supported by an award, grant, loan or other form of support provided by the National Endowment for the Arts.

We all know that the National Endowment gives grants to museums, helps them with their administrative expenses, helps them with their expertise, and they must put some kind of an exhibit in their museum that would fail some one person's test, somewhere in America, create a lawsuit, totally tie up the Endowment, totally tie up the museum, and it would fail what the amendment says is its goal, to insure that all members of the public have access to art funded by the program.

I think it is going to restrict access. Furthermore, I think it needs to be pointed out that the definition of indecent that it seeks to apply vis-a-vis the Federal Communications Commission versus the Pacifica Foundation really attempts to apply a broadcast standard to indecency, to the Endowment's funding. That is wholly inappropriate for what we are trying to do here.

I urge a "no" vote on the Regula amendment if indeed it is not substituted.

Mr. YATES. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] has 2 minutes remaining.

The Chair will advise that the gentleman from Ohio [Mr. REGULA] will close debate.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. WHITTEN].

(Mr. WHITTEN asked and was given permission to revise and extend his remarks.)

Mr. WHITTEN. Mr. Chairman, this matter came up in the Committee on Appropriations over very simple language which was in the report, saying that none of this should be done. If the language had been accepted, it would have not been subject to amendment and it have been turned over to the chairman of the NEA to determine whether these things happen along with a remedy if they did.

After listening to both sides here, I do not believe either side wants the problem settled. They would not have anything to talk about.

But my proposal was defeated because assurances were given that this would be taken care of when this bill was considered.

Now let me point out to you, and I support the Regula amendment, and I have talked to the gentleman from Montana [Mr. WILLIAMS] about this: Our appropriations are already tied up, which up the Congress. As chairman of the committee, I offered a resolution to let us operate to October 20. The leadership talked me into 5 days. The second resolution also went to the 20th and the leadership got me to go to the 12th and that was noted. The third CR went to the 20th and the other body changed it to the 19th—this Friday—and now we are about to close the Government again.

So let me tell you, and I am not going to call any names, but if you think you can put a legislative bill in an appropriations bill and run the risk of tying up the Congress in view of the Senate and the Senate amendments and the Senate rules or lack thereof, you are just fixing to tie the country into a knot.

I tried to get my friend from Montana not to offer his amendment. I do know I was assured when the amendment was up in our full committee that this matter would be taken care of on the floor.

If you put this legislative committee bill in the appropriations bill, it will be the first time I remember seeing such a thing done on the floor in my lengthy experience in Congress.

But if you do it, you are going to be responsible for tying up the country because you know the Senate, you know who the people are and you know what they will do under the rules.

This has to do with Federal funds. When this matter was before our Appropriations Committee the first time, I offered the following language:

NATIONAL ENDOWMENT FOR THE ARTS

The Chairman of the National Endowment for the Arts is charged with the responsibility that no Federal grant or other Federal funds be used for the purpose of authorizing and supporting or financing any indecent, anti-religious, or obscene picture, play or writing.

The Committee recommends that any organization or person violating these guidelines shall be obligated to return all Federal funds under the control or such organization or person to the Endowment.

The appropriate committees of Congress shall be kept advised of all projects funded.

This language, if adopted, would have solved this problem, for it went to the report, which was not amendable in the House and would have let the NEA Chairman, Mr. Frohnmayer, make the determination.

Chairman Frohnmayer has agreed to do his part to keep the bad situation from recurring, as did my amendment.

Mr. proposal was defeated on a commitment by the subcommittee members who gave assurances that continuing the Interior bill under the terms and conditions of the fiscal year 1990 bill, the current law, would prohibit such actions for the duration of the continuing resolution.

When the Interior bill was before the committee, the Regula amendment was offered but withdrawn upon agreement that all would work to make his amendment in order on the floor. My letter to the Rules Committee asked that his amendment be made in order, and the rule reported from the Rules Committee made the Regula amendment in order.

The amendment by Mr. WILLIAMS was made in order in a second rule after the business of the House was concluded last Thursday and after we had gone home—and was not in response to my request for a rule on behalf of the Committee on Appropriations.

Mr. Chairman, this is a most serious disruption of House procedures and particularly under present conditions, where the continuing resolution expires Friday of this week, and in view of the report that the President will again close down the Government—unless we meet his demands.

STATUS OF APPROPRIATIONS

Mr. Chairman, I repeat the statement I made to my committee today in connection with our revised 302(b) subdivision which was approved.

I'm proud of our committee. We have done our work. I have pointed out time and time again that our financial situation is not the fault of our committee. Since 1945, the total of our bills has been $173 billion below the total of the requests of the Presidents, and our progress this year has held up, despite our readiness to act.

The final sequester report would be in force today except for the continuing resolution. It would require a sequester of $152.5 billion in budget authority to reduce outlays by $83.3 billion. This is a 31.6-percent reduction in nondefense discretionary spending and a 34.5-percent reduction in military spending.

Reductions of one-third would be catastrophic. The existing continuing resolution expires Friday, the 19th. The budget resolution conference report adopted last week contained reconciliation instructions to the appropriate legislative committees that may result in sequestration being set aside for the year. That conference agreement also changed the 302(a) allocation to the committee from what was provided in the deemed House-passed resolution we have been operating within since June 19.

Before you is a revised 302(b) subdivision which we have discussed at the staff level and through the staff with subcommittee chairmen. We are moving our bills in the House and conference to conform to these levels.

Here is our situation: The continuing resolution expires midnight Friday.

The House has passed 11 bills and will pass the Interior bill today—for a total of 12. The legislative bill will be up on Wednesday. The Senate has passed nine bills and is considering DOD today. We have appointed conferees on eight bills and expect to appoint on Labor-HHS later today. We have concluded conference on two bills.

Another continuing resolution will likely be required. Our success in getting it through Congress and into law will be affected by what is happening on the reconciliation bill.

Once again, the committee will have to work hard to get our work done. I hope we will not see the Government

held up for reasons unrelated to appropriations.

□ 1950

Mr. REGULA. Mr. Chairman, I want to quote from the report to Congress by the Independent Commission, because the constitutional issue has been raised, and there were five lawyers testifying before the Commission from the University of Chicago, Columbia, Harvard, and two private law firms, and they had an agreement, unanimous agreement, on this language:

There is no constitutional obligation on the part of the Federal Government to fund the arts. That is a policy decision to be determined by Congress based upon its views as to whether it is useful and wise for the Federal Government to play a role in the arts funding process.

Mr. Chairman, I think they address that question clearly. I think the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN] has made the point that the procedure here is going to create real problems in the conference, and I would hope that we will not approve the substitute to my amendment at this point.

Mr. WEISS. Mr. Chairman, first I would like to stress my very serious opposition, as I did during consideration of the rule on this measure, to including authorizing language in an appropriations bill. As I understood it, authorizing committees and appropriating committees have different responsibilities—authorizing committees make legislative decisions and appropriations committees make funding decisions. I would like to think we could stick to the regular procedures.

The Regula amendment is not only inappropriate for an appropriations bill, but also unnecessary and unconstitutional.

The Regula amendment has two parts. The first part needlessly restates provisions of the National Endowment for the Arts reauthorization bill the House passed just 4 days ago. The requirement that funding be sensitive to the nature of public sponsorship, take into account general standards of decency, and be subject to the conditions of public accountability that govern the use of public money—have already been covered in the reauthorization language. Why must we rehash these vague requirements?

Whereas the first section of the Regula amendment is utterly unnecessary, the second section is utterly unconstitutional. This section prohibits the NEA from funding art that the agency determines is "obscene" or "indecent." "Obscenity," however, must be determined in a court of law, based on community standards. By requiring the NEA to make the determination of obscenity, and not the courts, the amendment deprives applicants of their due process rights, violating the first amendment.

Just 4 days ago, this body overwhelmingly rejected the Rohrabacher amendment to the NEA reauthorization bill which also required the NEA to judge obscenity. The House is not alone in its opposition to such a requirement. The President's Independent Commission on the National Endowment for the Arts, that Commission's legal advisors, and the Senate Committee on Labor and Human Resources all rejected proposals that would forced the NEA, and not the courts, to determine what is and is not obscene.

Despite the fact that we have already cast our votes on these issues, I guess we need to do it again to make ourselves clear. I urge my colleagues to vote to maintain the integrity of the U.S. Constitution and defeat the Regula amendment.

Mr. FAZIO. Mr. Chairman, after months of work on a compromise agreement, the chairman and the ranking member of the authorizing committee have developed sufficient reforms to address any of the preceived problems with the NEA.

The Williams substitute will preserve the tradition of artistic excellence in the NEA, while stating that the NEA may not fund obscene art—obscenity is without artistic merit and is not protected speech.

Many of the Regula provisions have been included in the reauthorization bill—the NEA must be sensitive to the nature of public sponsorship, greater accountability by the Endowment for grant awards, and advisory panels will reflect diverse cultural and artistic viewpoints.

Regula's amendment, like Rohrabacher's, requires prior restraint and places the Government in the role of judge and jury—Williams' leaves the determination of what is obscene to the courts, the traditional and appropriate venue for this issue.

Including the definition of indecency as defined by FCC versus Pacifica is very dangerous. This is a broadcast standard, not one which has been applied to works of art. One has a choice to go to a museum, attend a play, or listen to music. The standard for indecency under Pacifica is intended for radio and t.v. broadcasts, mediums which traditionally have required stricter regulation.

The language requiring that work must be "appropriate for a general audience" would be extremely difficult to interpret: would only landscapes be safe?

The reauthorization bill approved by the House yesterday reaffirms our nation's commitment to the arts while ensuring the NEA will be sensitive to the nature of public sponsorship.

Let us put an end to this demagoguery against the NEA and support the Williams substitute—a fair and reasonable remedy.

Mr. CONTE. Mr. Chairman, I rise in opposition to the Regula amendment, and in support of the Williams-Coleman substitute.

Let me just make it clear from the beginning that in addition to my objections to the Regula amendment, I oppose obscenity and indecency. I do not approve of the few grants that are used by proponents of NEA restrictions to illustrate a so-called problem. Those projects were in bad taste, and whether or not they were technically obscene or indecent, I felt they should not be federally funded.

But that's history, and besides it's not the real issue in this debate. No one wants to use scarce Federal funds to finance pornography, obscene art or indecent projects. The real challenge in this debate is identifying a problem, and crafting a solution that addresses that problem in a constitutional and fair way. The Regula amendment, in my opinion, misses that challenge in several respects, especially when the amendment is evaluated in light of recent NEA reforms and in light of action taken by the House just today.

First of all, the obscenity prohibition of the Regula amendment is duplicative and potentially damaging to the prohibition contained in the Williams-Coleman substitute adopted last week and offered here today. Clearly the authorization bill prohibits funding of obscene art, but unlike the Regula amendment, the authorization bill provides for a specific mechanism to enforce that prohibition. These two potentially conflicting commands of Congress could in the end make both prohibitions ineffective.

Second, I have serious constitutional concerns about the funding prohibition in the Regula amendment, particularly the prohibition against indecent art. I am troubled by this provision because as an appropriator, I am a strong defender of the right of Congress to determine Federal spending. The framers of the Constitution were clear to give the Congress the power of the purse. And when proponents argue that Congress has the right to determine which art to fund and which not to fund, frankly, it is a very powerful argument. But after close examination of the substance of this prohibition, I am very concerned that the Congress is stepping over the line of constitutional propriety.

The independent Commission, established on the recommendation of the author of this amendment, clearly points to this problem. On page 85 of the Commission report, it says:

While Congress has broad powers as to how to expend public funds, it may not do so in a way that the Supreme Court has said is aimed at the suppression of dangerous ideas.

Similarly, a paper prepared by the New York City Bar Association argued that restraints on funding could "constitute an impermissible prior restraint in violation of the due process clause of the fifth amendment." To me, this provision presents a serious constitutional flaw which in the end could jeopardize the effectiveness of all NEA funding prohibitions.

My final point is again made by the independent commission report. On page 89, the report recommended "against legislative changes to impose specific restrictions on the content of works of art supported by the Endowment." Constitutional concerns are cited as the justification for this recommendation, but the underlying proposition is that these restrictions, in effect, provide a deficient solution to a nonproblem. Over the past 25 years, the Endowment has funded over 85,000 grants, reaching every congressional district, and of those grants only a few can be even classified as controversial.

What is not mentioned in this debate by proponents of restrictive language are those thousands of grants funded each year without controversy or banner headlines. Grants for activities like the Peoria Symphony; an opera company in Mobile, AL; children's books in San Francisco; the Mississippi Museum of Art in Jackson; and the Boise Philharmonic, just to name a few. This is the real NEA, an organization that brings the arts to all of America, not just to those who can afford it.

Mr. Chairman, for me the real issue in this debate was dramatically raised by a witness appearing before the Interior Subcommittee. I did not have the opportunity to attend the star-studded hearing earlier this year, but if SID YATES charged admission, he would have made a fortune. World famous performers and

artists from a variety of disciplines gave personal testimony about the arts in America and the work of the NEA.

One witness was particularly effective. Jessica Tandy, the Oscar winning actress, closed her testimony with a quote from the film "All About Eve." The quote from the movie addressed this question: "You want to know what theater is?" The answer from the film was:

Donald Duck, Ibsen and the Lone Ranger. Sarah Bernhardt, Lunt and Fontanne, Betty Grable, Rex the Wonder Horse, Eleanora Duse—all theater. You do not understand them all. You do not like them all. Why should you? The theater's for everybody, you included, but not exclusively. So don't approve or disapprove. It may not be your theater. But it's theater for somebody somewhere.

Mr. Chairman, I am not sure that I know exactly what theater is or what art is obscene or indecent. But I am sure that Congress does not know and that restrictions without definition or enforcement mechanisms are stifling and constitutionally suspect.

I urge my colleagues to oppose this amendment, and stick with the position adopted by the House yesterday, a position that bans obscene art in an enforceable way.

The CHAIRMAN. All time on the amendment offered by the gentleman from Ohio [Mr. REGULA] has expired.

AMENDMENT OFFERED BY MR. WILLIAMS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. REGULA

Mr. WILLIAMS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAMS as a substitute for the amendment offered by Mr. REGULA: strike out the language proposed to be added and insert in lieu thereof the provisions of H.R. 4825 as passed by the House.

The CHAIRMAN. Pursuant to House Resolution 505, the amendment is not subject to amendment.

The gentleman from Montana [Mr. WILLIAMS] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. REGULA. Mr. Chairman, I rise to claim the time in opposition.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] will be recognized for 15 minutes.

The Chair now recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I ask unanimous consent to yield 5 minutes to be controlled by the gentleman from Missouri [Mr. COLEMAN].

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. WILLIAMS. Mr. Chairman, I would prefer, as I think most Members of the House would, that we not be here. I frankly would have rather that the Committee on Rules had allowed neither the amendment of the gentleman from Ohio [Mr. REGULA] or my own amendment to be offered to this bill.

However, Mr. Chairman, once the Committee on Rules did decide to allow the amendment of the gentleman from Ohio [Mr. REGULA], then it was clear that, unless mine was also offered, the work that many of us have conducted for 1½ years to this matter would be for naught, and, more important, the 5 hours of debate and vote that the House considered, I believe, 2 legislative days ago, would be moot.

Mr. Chairman, I recognize this is a very unusual method, asking that we in this substitute to the amendment of the gentleman from Ohio [Mr. REGULA] place in total the legislation which the House passed reauthorizing the National Endowment for the Arts, the National Endowment for the Humanities and the Institute for Museum Services, but with this amendment I ask that all of that legislation be placed upon this appropriation bill.

I want to say to the chairman of the full House Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN] that I understand and am not entirely in disagreement with his concern that we are going to weigh down this extremely important appropriations bill. I agree with him that this is not good process. I only do it in these extraordinary circumstances because I do not want to see the work of our committees and the work that this House took 5 hours to accomplish just a few days ago go for naught.

I am not going to belabor the matter. Let me just suffice it to say that, if the amendment of the gentleman from Ohio [Mr. REGULA] had been accepted, and I oppose it, it would have extraordinarily confused the grant-making process as conducted by the peer review panels, and the national council and the chair of the National Endowment for the Arts. The House, I am hopeful, will, with the same vote that it accepted the Williams-Coleman amendment, now accept this substitute.

Mr. Chairman, this is the identical language, with no changes, and I remind the House that this will then place this legislation on two legislative tracks. The first track is that which we passed just a legislative day or so ago when we accepted the Williams-Coleman amendment. The second track will be to place that identical language on this Interior appropriation bill. This will assure, I hope, that the will of the House reaches the President's desk and becomes law.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, the gentleman from Ohio [Mr. REGULA] is obviously opposed to this amendment, and it is particularly gracious of him that he would yield to me since I am supportive of this amendment, and he gave me his time. I think that indicates, however, the shared spirit here of one way or another addressing this issue to the fullest and to the best of our ability, and to that extent I do appreciate the gentleman yielding.

However, Mr. Chairman, I want to say, while I rise in support of the amendment, because I believe incorporating the authorization bill, as unusual as it is, that it is the smoothest way to address the issue given where we find ourselves in relationship to the Senate.

I want to rise in defense of some of the objections that were raised earlier relative to the language of the gentleman from Ohio [Mr. REGULA]. Obscenity under the law has a very specific legal meaning under Miller versus California, and, even under that specific meaning, it is very difficult because of the community standards aspect of the standard. The Miller versus California standard, quite frankly, does not fully encompass many of the concerns raised by the public and shared in this Congress, and that is why the gentleman in his language refers to general standards of decency as an obligation under the endowment, and, under the context and rubric of being sensitive to the nature of public sponsorship and public accountability that governs the use of public money, some comments have been made suggesting referencing the Pacific case in terms of indecency is inappropriate.

What should be understood is that those of us who have suggested this have done so by way of putting some limitations, and restrictions and guidelines on the decency standard to insure that we would respond to some of those concerns which have been raised: What does decency mean? What does indecency mean? That is so we could give it some broad parameters of meaning through which the council and its director could make prudential judgments.

I think, related in that light, I think it shows a good deal of sensitivity. I do not find the language of the gentleman from Ohio [Mr. REGULA] to be irresponsible, but I do believe the best way we could proceed at this point in time is by supporting the substitute, and I again thank the gentleman from Ohio [Mr. REGULA] for yielding to me.

The CHAIRMAN. For what purpose does the gentleman from Missouri [Mr. COLEMAN] rise?

Mr. COLEMAN of Missouri. Mr. Chairman, I have 5 minutes that was yielded to me, and I yield myself those 5 minutes.

(Mr. COLEMAN of Missouri asked and was given permission to revise and extend his remarks.)

Mr. COLEMAN of Missouri. Mr. Chairman, I rise in support of the Williams-Coleman substitute to the amendment of the gentleman from Ohio [Mr. REGULA]. I do so for the same reasons that the gentleman from Montana [Mr. WILLIAMS] does.

Mr. Chairman, the House has just been through a rather difficult process of coming to grips with this issue. I think we spent 7, or 8 hours on the floor the other day doing this, and people, I think, are being called upon to now switch their votes or change their votes. It is really tough on Members having to face this issue, and it was a crucial issue. It was probably one of the most difficult ones we faced this year. I would rather not have to force them to do that, and that is why the Williams-Coleman amendment is being offered again for the people to vote on.

Mr. Chairman, let me point out that the amendment of the gentleman from Ohio [Mr. REGULA] introduces some language and some concepts that are not in our proposal, so it is not just a Hobson's choice here. There are some very distinct differences in our amendments, and one of them is the term "indecency" as the gentleman from Ohio [Mr. REGULA] would use in the Federal Communications Commission versus Pacific Foundation, a Supreme Court case, which he wants to incorporate into the law and into the appropriation bill.

□ 2000

Indecency is a more abstruse standard than the obscenity standard we have talked about, and has not clearly been defined by the Supreme Court. Indeed, in the Pacifica case, the Court did allow limited regulation of indecent material in the radio broadcast medium, and later restricted it simply and solely to the broadcast medium. It was limited because the broadcast medium is uniquely accessible to children. That means that a child could turn on the radio any time of the day or night and receive this information over the radio, but the Supreme Court said because it was going out over the airwaves, it was in fact indecent, but when applied to other aspects of life, would not be indecent.

By incorporating indecency as defined by the Pacifica case, the Regula amendment is in fact imposing a standard created by the Supreme Court to protect children listening to the radio, and he is applying it to everyone, including adults, by his amendment.

The essence is that the Regula amendment would mean that no project or work that might be deemed unsuitable for a child under 12 could be funded by the NEA. I think that Members have to recognize that that is indeed the case. Words that are common in one setting are indeed shocking in another. Coming out over the airwaves is one thing. Going to a theater performance is another.

So I respectfully submit that the Regula amendment goes far beyond Williams-Coleman, it is vague, and I believe therefore unconstitutional in this respect. I again ask Members to support the Williams-Coleman substitute to the Regula amendment, to reconfirm their vote on this the other day. As sloppy as this process and procedure is, it may be the only way that we can deal with this issue and get it behind us.

Mr. Chairman, I think Members want to get this behind us. If Members want this issue behind them, vote for the Williams substitute motion to Regula tonight.

The CHAIRMAN. The gentleman from Missouri [Mr. COLEMAN] has consumed 3 minutes, and has 2 minutes remaining.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CARR].

(Mr. CARR asked and was given permission to revise and extend his remarks.)

Mr. CARR. Mr. Chairman, as I said a few minutes ago, I oppose the Regula amendment. I think it is unworkably vague and will lead to much mischief in the courts, vis-a-vis litigation by people who want a plain vanilla art in America, which I think most of us do not want.

It is also a very difficult thing for me to stand and oppose the inclusion of the Williams-Coleman substitute of a few days ago. I do not think, and I think the chairman of the subcommittee would concede, that outside of the members of the subcommittee, there were few other people who worked as hard to see that the National Endowment for the Arts was reauthorized and the passage of the Williams-Coleman substitute.

I would like to side in this particular instance with the chairman of the full committee, the gentleman from Mississippi [Mr. WHITTEN], and the gentleman from Ohio [Mr. REGULA], and those who believe that inclusion of an authorization bill in toto on the House floor in an appropriations bill is the wrong thing to do, for a lot of reasons that have nothing to do with the National Endowment for the Arts.

Mr. Chairman, this puts the Committee on Appropriations in a very, very difficult position of being a freight forwarder, if you will, of work that is rightfully that of others in the Congress. I would hope and I would work very hard, as I did with the subcommittee chairman, the gentleman from Montana [Mr. WILLIAMS] and the ranking member, the gentleman from Missouri [Mr. COLEMAN], to see to it that the Senate does take up and does pass and have a successful conference and that their authorization bill goes to the desk of the President, because I believe that is in the best interest of this country. But I do not believe we should hijack an appropriations bill to do so.

Mr. Chairman, I urge a no vote.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] has 10 minutes remaining, the gentleman from Montana [Mr. WILLIAMS] has 6 minutes remaining, and the gentleman from Missouri [Mr. COLEMAN] has 2 minutes remaining.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for informational purposes, let me note that there is a unique attribute to broadcasts, and that is that broadcasting can intrude on the privacy of a home really without one's permission. For example, if certain indecent remarks are coming across that broadcast, children may hear them. It is not the intention of the parents that the children hear them, but the radio happens to be turned on, or the television happens to be turned on, and the parent is out of the room.

Because of that, the FCC has ruled that works that are indecent have to be tightly restrained by FCC regulations. What the gentleman from Ohio [Mr. REGULA] would do is place that standard of indecency where it was not intended, and that is he would overlay it on the selection process of the National Endowment for the Arts.

Mr. Chairman, one can quickly see both the confusion and mischief that that would bring. The Supreme Court itself has never allowed the FCC standards to be applied beyond broadcasting. For example, it has specifically found that those standards do not apply to books or magazines or photographs. That is the reason to turn down the Regula amendment.

The reason to accept the Williams-Coleman substitute, which is the vote that will occur, is simply to keep alive the work of the past year and a half, and to place on the appropriation bill, which may be the only vehicle with regard to the National Endowment for the Arts, the National Endowment for the Humanities, and the Institution of Museum Service, the only vehicle that ever reaches the President's desk for signature.

Mr. Chairman, I want to say finally that again I think this is a bad process. I believe that the gentleman from Illinois [Mr. YATES] and the gentleman from Michigan [Mr. CARR] and the gentleman from Mississippi [Mr. WHITTEN] are right, indeed, to oppose this process. I would have preferred, I will say to them and to Members, that the Committee on Rules had never allowed the Regula amendment to be offered. But once it was offered, I felt compelled on behalf of the Members of this House, who overwhelmingly supported the Williams-Coleman amendment, as the new reauthorization of the National Endowment for the Arts, the other Endowment, and the Institute as well, I felt compelled on their behalf to offer this.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had discussions of the question of using the FCC case as a standard of definition. I would point very carefully to the language. It says, "or indecent as the term is used in the FCC."

Now, let us go to the case. The FCC case, says, "Indecent, which merely refers to nonconformance with accepted standards of morality."

So by using the language as the term is used, we are incorporating the language from the case to give the Chairman of the NEA some type of guideline in making these decisions. The guideline would be that we could not spend the money if it would be indecent, if it were in nonconformance with accepted standards of morality.

Mr. Chairman, Congress does have a responsibility, because we regulate the public money. I think this is just as important as what goes out over the airways. We are trying to say the use of taxpayer dollars should not be for anything in the way of projects that are obscene or indecent. We have set up, what I think, is a responsible standard to give the chairman guidelines in making these decisions.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. WEISS].

(Mr. WEISS asked and was given permission to revise and extend his remarks.)

Mr. WEISS. Mr. Chairman, if the Williams-Coleman substitute were standing by itself freely, I would vote against it, as I did the other day. But it is not. It is being offered in substitution for the Regula amendment. It is obviously far preferable to the Regula amendment, so I urge Members to vote for it as a substitution.

But I must tell Members that if I get a chance to vote against it after that, I will, because standing as it does, with all the eloquence that the distinguished gentlemen from Illinois stated as to why the Regula amendment was unconstitutional, the same thing I think applies to the Williams-Coleman substitute.

Mr. Chairman, listen to the language of the Williams-Coleman substitute. It requires that in establishing application procedures and regulations, the NEA chairperson has to ensure that "artistic excellence and merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public."

□ 2010

What does that mean? Mr. David Duke, the former head of the Ku Klux Klan, who got 44 percent of the vote for the U.S. Senate in Louisiana, does he represent the values of the American public, that we are supposed to be abiding by?

The language is so vague that it is exactly the kind of thing the Supreme Court has repeatedly held to be unconstitutional, and I think that is what will happen again.

But clearly the Regula amendment is unconstitutional on all points, and the Williams-Coleman only partially unconstitutional, so it is preferable as a substitute.

Mr. Chairman, I have already expressed my opposition to the rule which allowed authorizing legislation in an appropriations bill. It goes against established procedures, especially considering that the House already passed an authorization bill for the National Endowment for the Arts [NEA].

I recognize that Mr. WILLIAMS and Mr. COLEMAN came up with this substitute to try and ward off efforts, such as the Rohrabacher amendment, to completely and unconstitutionally tie the hands of the NEA. I appreciate their courageous work in attaining a compromise. However, I did not vote for the Williams-Coleman substitute when the House passed it during the reauthorization of the NEA. If it were freestanding I would vote against it now. But, clearly, it is preferable to the Regula amendment. And on that basis alone I urge its adoption.

This substitute includes provisions that pose serious problems for our country's artistic and cultural future. Such provisions include those increasing the percentage of NEA grants that go directly to state art agencies and those that unpracticably revise the peer review process.

Most troubling, the substitute sets new standards for judging grant applications violating the first amendment.

The Williams-Coleman substitute requires that in establishing application procedures and regulations, the NEA Chairperson ensure that "artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public."

These amorphous requirements are unconstitutionally vague. What "standard of general decency" will be used? How can one determine whether a particular work of art is within "general standards of decency" or respects "the diverse beliefs and values of the American public?" What is the American public? Who is to take into the consideration these standards—the Chairperson when making the regulations, or the panels when they are reviewing the applications?

These funding standards are so broad that they have no constitutional meaning; they permit an administrator to make speech-based decisions without any fixed standards. Consequently, they will chill creative output because an artist simply will have no clear indication of their meaning. These considerations have led the Supreme Court consistently to hold vague and amorphous content standards, such as the ones in the Williams-Coleman substitute, to be unconstitutional.

In *Shuttlesworth* v. *City of Birmingham* (1969), for example, the Court struck down as unconstitutionally vague a statute that permitted city officials to deny a parade permit if the officials believed that "decency, good order, morals or convenience require that it be refused." The Court stated that "subjecting the exercise of First Amendment freedoms to [restrictions] without narrow, objective, and definite standards . . . is unconstitutional."

In *Joseph Burstyn, Inc.* v. *Wilson* (1952) the Court stated that "to allow vague indefinable powers of censorship is bound to have stultifying consequences on the creative process of literature and art."

In addition to being unconstitutionally vague, the Williams-Coleman prohibition against indecency and disrespect violates the bedrock principle that the Government may not impose content restrictions on speech merely because society may find that speech offensive or disagreeable. Until the Court decides something is "obscene," it is protected by the first amendment. The first amendment stringently limits restrictions on indecent speech and art. In *Sable Communications* v. *FCC*, 109 S.CT. at 2836, the Supreme Court stressed that "sexual expression which is indecent but not obscene is protected by the First Amendment." And, the first amendment does not disappear because the Government picks up the tab. The Supreme Court has upheld this principle over and over again.

I realize that the Williams-Coleman substitute represents an earnest attempt at compromise on a controversial issue. I am concerned by its provisions especially, because of its challenges to the integrity of the Constitution.

But as a substitute to Regula it deserves to be supported.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN].

(Mr. AUCOIN asked and was given permission to revise and extend his remarks.)

Mr. AUCOIN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support of the Williams-Coleman substitute to the Regula amendment. I hope Members will think about this very carefully because, as has been pointed out, only about two legislative days ago this House voted by a margin of 382 to 42 in support of the language that is now embodied in the substitute.

That language requires the repayment to the Federal Treasury of any grant that a court may find obscene. That language calls for stricter and tighter oversight over the grant applications. It applies the Miller test of obscenity to the question of what is obscene.

I think Members are going to have an extremely difficult time tonight if after voting by a margin of 382 to 42 for the Williams language to now tonight vote no on it, some 2 to 3 legislative days later. So for heaven's sake, as bad as things are today in terms of the public trying to make some sense out of what is happening in this place, let us be consistent here and support the Williams-Coleman language.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. WHITTEN], chairman of the Committee on Appropriations.

Mr. WHITTEN. Mr. Chairman, May I point out, and I do not think folks take it near as serious as I do, we have been dragged around in the Congress from October 5, to October 12, to October 19, and our ability to operate quits this Friday. To send this to the Senate is inviting disaster, and Members should remember that when we are unable to proceed on an appropriations bill because we are bogged down in the authorization for the arts—which we all support but which we

would endanger by gambling the Senate will take an authorization bill in an appropriations bill.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, I think the Regula amendment is excellent. I do commend the gentleman from Missouri [Mr. COLEMAN] and the gentleman from Montana [Mr. WILLIAMS] for their amendment. It is certainly better than the bill as originally conceived, but I do not see why anyone should be surprised that the gentleman from Ohio [Mr. REGULA] wants to tighten up the accountability and deny funds for obscene and indecent art.

Public funds should be used for public purposes, and some of the alleged art, and we have heard it until we are sick, was an affront and is an affront to the sensibilities of the overwhelming majority of American taxpayers. To object to the Mapplethorpe homoerotic photos, to illuminating Christianity by Serrano, to object to the use of public funds extracted, coerced from taxpayers for child pornography seems to me is entirely opportune. It just seems to me to force taxpayers to pay for art that you cannot display on the floor of this room before the body of the people, that newspapers will editorialize in favor of but dare not print on the pages is just too much. It is carrying the emperor's clothes too far, and it seems to me the rest of the 85,000 works of art that were funded by the National Endowment are not vanilla art. They just do not happen to be indecent or obscene.

We are easily intimidated by the arts establishment, the elite who make these decisions. But when they pick this artist to fund and this artist not to fund, they are exercising curatorial discretion. Congress has a duty to the people we coerce the money from to see that their money goes for appropriate public purposes.

It seems to me the gentleman from Ohio [Mr. REGULA] by adopting some of the language chosen by the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN], but adding to it that none of the funds may be used to finance or support an award, grant, loan or other form of support that is obscene, and then setting out legal standards for it, Miller versus California for indecent is doing the same thing, is not too far stretched. It is not an abuse of the local arts councils. It is really a vote in favor of standards, in favor of decency, against obscenity that I am sure your voters, your people who pay these taxes support.

So I support the Regula amendment and I do not support reintroducing and swallowing up the Regula amendment by Williams-Coleman, good as that is, better than nothing. But the Regula amendment is the best, and I hope that we will defeat this amendment and keep the Regula amendment alive.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to point out one other thing, one basic difference between the Regula amendment and the Williams-Coleman amendment.

In this report, and I refer again to the report of the Independent Commission, it says under recommendation 1, "The Independent Commission recommends that the sole authority of the chairperson to make grants be made explicit in legislation." I think that the Regula amendment does that.

Second, it recommends as follows: "The Independent Commission recommends that in order to carry out his responsibilities more effectively the chairperson be given more authority and more choices." Again, I think the Regula amendment does that, and it provides a standard.

I want to say that I think the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN] did good work as far as it went. I think they worked hard in trying to get a good authorization bill.

After the Rohrabacher amendment failed the other day, and I voted for that, then I voted for Williams-Coleman as the best choice that was available at that time, because we should not have an authorization of NEA and NEH without standards, and I say this is true of both of them. There should be standards. In the Williams-Coleman amendment they adopted a number of good procedural recommendations that I think are very important for the long haul. It is a 3-year authorization.

Let me make it clear that the issue today is the procedure, not the substance, and in substituting Williams-Coleman I think we are creating a real problem, as was pointed out by the gentleman from Michigan. I think procedurally this is the wrong way to go, and in objecting to the Williams-Coleman I am objecting to the procedure.

Let me also point out that just because Williams-Coleman would be rejected as a substitute for my amendment does not mean that the bill is in any way canceled or no longer viable. A no vote simply means that Williams-Coleman will have to take the regular path that any authorization bill takes, and that is to go to the conference with the Senate, and the appropriate committee from the Senate, and resolve the differences on a long-term authorization bill. That is the right way to do it. And it it is rejected as a substitute here, it will still go forward and could very well be conferenced in the balance of the time available to us, and be on the President's desk. That is the proper procedure.

A vote no here is a vote for the right procedure. By adopting my amendment, if the Williams-Coleman substitute fails, we will have language that will guarantee over the next 12 months only, this is a 12-month bill, and in fact it will be less time than that because here we are at October 15, but it will guarantee or ensure that in the spending of the $180 million provided in the bill that the chairperson of the Endowment and the Council will have to exercise the kind of judgment that the American people want on their behalf in the expenditure of their tax dollars.

□ 2020

But in the meantime, the Williams-Coleman bill could go the route that it should go, and that is to have a conference with the Senate authorizing committee, work out their differences, and get a bill back here for confirmation and to the President.

In the meantime, I think we need the Regula language to protect the appropriations during the next 12 months.

Mr. Chairman, I yield back the balance of my time.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, one final comment, in the Regula amendment, one of the standards he is declaring for the National Endowment to fund projects is that they will be appropriate for a general audience. I do not know what that means. I do not know that anybody knows what that means. That is why I think the Regula amendment is unworkable and why we need to support the Williams-Coleman substitute.

Mr. Chairman, I yield back the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my colleagues, today is October 15. On October 19 the Congress is scheduled to end its business.

We have been talking with the Senate today including the majority leader's office, and there appears little, if any, chance that the authorization bill on the NEA and the Humanities Endowment and the Institute of Museum Services will ever see the light of day. It may well be that this is the only vehicle on which they can reach the White House.

Does the House of Representatives want to place the 41-page bill with all of the changes that we made in the reforming of the grant review process and shifting money to the States and making obscenity illegal, but leaving it to the courts, do we want to substitute all of that for the 20 lines in the Regula amendment? I say the answer is no.

So the only way to go back to what the House did a legislative day or two ago is to vote "aye" now on the Williams-Coleman substitute. That is the vote before us.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Washington.

(Mr. DICKS asked and was given permission to revise and extend his remarks.)

Mr. DICKS. Mr. Chairman, I rise in very strong support of the Williams-Coleman amendment. I think this is the right course to take. The House has worked its will on this legislation.

Mr. CONTE. Mr. Chairman, I rise in support of the Williams-Coleman substitute, and in opposition to the Regula amendment.

The substitute offers an exacting, well though out approach, which regulates and fine-tunes the grantmaking process for the National Endowment for the Arts. The substitute addresses the concerns of NEA critics primarily in two ways. First, the substitute makes procedural reforms in the grantmaking process. Second, it establishes a clear prohibition against funding of obscene art.

The substitute completely revamps the grant application process, requiring detailed applications and periodic reporting. It restructures the panel review process, requiring lay persons and geographic balance on the panels. The substitute assures that ultimate funding decisions and ultimate accountability rests with the Chairperson of the NEA. These reforms address the problems that have arisen over the past few years when the application process and granting procedures did not adequately ensure accountability.

And, for those who are concerned about obscenity in the arts, and that includes myself, the substitute makes it clear that constitutional prohibitions against obscenity apply to the NEA. The substitute states in law that obscenity is without artistic merit, is not protected speech, and shall not be funded by the NEA. I can think of no stronger restrictions that can seriously survive exacting constitutional scrutiny.

The Regula amendment, on the other hand, is not exacting or precise. It is a meat ax approach to the problem that has serious constitutional infirmities. The independent commission report, on page 85, points to this problem:

While Congress has broad powers as to how to expend public funds, it may not do so in a way that the Supreme Court has said is "aimed at the suppression of dangerous ideas."

The Regula amendment bans indecent art, which for the most part, is protected speech. These deficiencies could, in the end, if adopted by Congress and held to violate the Constitution, provide no restrictions on NEA grantmaking procedures.

Mr. Chairman, I urge Members to stick with the reforms mandated in the Williams-Coleman substitute. They provide constitutionally sound restrictions on the NEA which are enforceable and realistic. Vote yes on the substitute amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana [Mr. WILLIAMS] as a substitute for the amendment offered by the gentleman from Ohio [Mr. REGULA].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. REGULA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 171, not voting 28, as follows:

[Roll No. 461]

AYES—234

Ackerman	Grandy	Oberstar
Alexander	Gray	Obey
Anderson	Green	Olin
Andrews	Guarini	Owens (NY)
Annunzio	Gunderson	Owens (UT)
Anthony	Hall (OH)	Panetta
Aspin	Hamilton	Payne (NJ)
Atkins	Hatcher	Payne (VA)
AuCoin	Hayes (IL)	Pease
Bates	Henry	Perkins
Bellenson	Hertel	Pickett
Bereuter	Hoagland	Pickle
Berman	Hochbrueckner	Price
Bilbray	Hopkins	Rangel
Boehlert	Horton	Rhodes
Bonior	Hoyer	Richardson
Borski	Hughes	Ridge
Bosco	Jacobs	Roberts
Boucher	Johnson (CT)	Roe
Brooks	Johnson (SD)	Ros-Lehtinen
Bruce	Johnston	Rose
Bryant	Jones (GA)	Rostenkowski
Buechner	Jones (NC)	Roybal
Bustamante	Kanjorski	Russo
Byron	Kaptur	Sabo
Campbell (CO)	Kastenmeier	Saiki
Cardin	Kennedy	Sangmeister
Carper	Kennelly	Savage
Chandler	Kildee	Sawyer
Clarke	Kleczka	Saxton
Clay	Kolter	Scheuer
Clement	Kostmayer	Schiff
Clinger	LaFalce	Schneider
Coleman (MO)	Lancaster	Schroeder
Coleman (TX)	Lantos	Schumer
Collins	Leach (IA)	Serrano
Condit	Lehman (CA)	Sharp
Conte	Lehman (FL)	Shaw
Conyers	Lent	Shays
Cooper	Levin (MI)	Sikorski
Courter	Levine (CA)	Sisisky
Coyne	Lewis (CA)	Skaggs
Davis	Lewis (GA)	Slattery
de la Garza	Lowery (CA)	Slaughter (NY)
DeFazio	Lowey (NY)	Smith (FL)
Dellums	Machtley	Smith (IA)
Derrick	Manton	Smith (NE)
Dicks	Markey	Smith (VT)
Dingell	Martin (NY)	Snowe
Dixon	Matsui	Solarz
Donnelly	Mavroules	Staggers
Dorgan (ND)	Mazzoli	Stark
Downey	McCloskey	Stokes
Durbin	McCurdy	Studds
Dwyer	McDermott	Swift
Dymally	McGrath	Synar
Eckart	McHugh	Torres
Edwards (CA)	McMillan (NC)	Torricelli
Espy	McMillen (MD)	Towns
Evans	McNulty	Traficant
Fascell	Meyers	Traxler
Feighan	Mfume	Udall
Fish	Miller (CA)	Unsoeld
Flake	Miller (WA)	Vento
Foglietta	Mineta	Visclosky
Ford (TN)	Moakley	Walgren
Frank	Molinari	Walsh
Frenzel	Mollohan	Washington
Frost	Morella	Waxman
Gaydos	Morrison (WA)	Weiss
Gejdenson	Mrazek	Weldon
Gephardt	Murtha	Wheat
Geren	Nagle	Whittaker
Gilman	Neal (MA)	Williams
Glickman	Neal (NC)	Wise
Gonzalez	Nelson	Wolpe
Goodling	Nowak	Wyden
Gordon	Oakar	Yates

NOES—171

Applegate	Hastert	Pursell
Archer	Hayes (LA)	Quillen
Armey	Hefley	Rahall
Baker	Hefner	Ravenel
Ballenger	Herger	Regula
Barnard	Hiler	Rinaldo
Bartlett	Holloway	Ritter
Barton	Hubbard	Robinson
Bateman	Huckaby	Rogers
Bennett	Hunter	Rohrabacher
Bentley	Hutto	Roth
Bevill	Hyde	Roukema
Billirakis	Inhofe	Sarpalius
Boggs	James	Schaefer
Broomfield	Jenkins	Schulze
Browder	Jontz	Sensenbrenner
Brown (CO)	Kasich	Shumway
Bunning	Kolbe	Shuster
Burton	Kyl	Skeen
Callahan	Lagomarsino	Skelton
Campbell (CA)	Laughlin	Slaughter (VA)
Carr	Leath (TX)	Smith (NJ)
Coble	Lewis (FL)	Smith (TX)
Combest	Lightfoot	Smith, Robert (NH)
Costello	Lipinski	Smith, Robert (OR)
Cox	Livingston	Solomon
Craig	Lloyd	Spence
Crane	Long	Spratt
Dannemeyer	Luken, Thomas	Stallings
Darden	Lukens, Donald	Stangeland
DeLay	Madigan	Stearns
DeWine	Marlenee	Stenholm
Dickinson	McCandless	Stump
Dornan (CA)	McCollum	Sundquist
Douglas	McCrery	Tallon
Dreier	McDade	Tanner
Duncan	McEwen	Tauke
Dyson	Michel	Tauzin
Edwards (OK)	Miller (OH)	Taylor
Emerson	Montgomery	Thomas (GA)
English	Moorhead	Thomas (WY)
Erdreich	Murphy	Upton
Fawell	Myers	Valentine
Fields	Natcher	Vander Jagt
Filippo	Nielson	Volkmer
Gallegly	Ortiz	Vucanovich
Gekas	Oxley	Walker
Gibbons	Packard	Watkins
Gillmor	Pallone	Weber
Gingrich	Parker	Whitten
Goss	Parris	Wilson
Gradison	Pashayan	Wolf
Grant	Patterson	Wylie
Hall (TX)	Paxon	Yatron
Hammerschmidt	Penny	Young (FL)
Hancock	Petri	
Hansen	Porter	
Harris	Poshard	

NOT VOTING—28

Bilbey	Ford (MI)	Pelosi
Boxer	Gallo	Ray
Brennan	Hawkins	Rowland (CT)
Brown (CA)	Houghton	Rowland (GA)
Chapman	Ireland	Schuette
Coughlin	Martin (IL)	Smith, Denny (OR)
Crockett	Martinez	
Early	Mink	Thomas (CA)
Engel	Moody	Young (AK)
Fazio	Morrison (CT)	

□ 2041

The Clerk announced the following pair:

On this vote:

Mr. Moody for with Mr. Thomas of California against.

Messrs. POSHARD, THOMAS A. LUKEN, and PARRIS, Mrs. PATTERSON, and Messrs. LIPINSKI, COSTELLO, and MILLER of Ohio changed their vote from "aye" to "no."

Mr. SAXTON and Mr. LENT changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just to clarify the parliamentary situation, my amendment has now been amended by Williams-Coleman and the next vote will be on Regula, as amended by Williams-Coleman.

A vote "aye" will send the appropriations bill, with $180 million for the NEA, to conference with the Williams-Coleman language as part of the bill.

A vote "no" would send the appropriation bill to conference with no restrictions, with zero content restrictions as a matter of fact.

While I would prefer the Regula language, I think it is impoortant that we have restrictive language in the appropriations bill, and therefore it is necessary to have an aye vote for Regula as amended by Williams-Coleman so that we can go to conference and hopefully come out with a strong bill both on the appropriation as well as the authorization.

Mr. YATES. Mr. Chairman, I move to strike the next to the last word.

Mr. Chairman, I should like to tell the House that I take the opposite view from the gentleman from Ohio [Mr. REGULA].

I agree with the chairman of the Appropriations Committee that this appropriations bill should not be a vehicle for a legislative enactment.

I oppose the procedure, but I recognize what has to be done by the gentleman from Montana [Mr. WILLIAMS]. Nevetheless, I propose to vote "no" on the next vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. REGULA], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. REGULA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 342, noes 58, answered "present" 2, not voting 31, as follows:

[Roll No. 462]

AYES—342

Alexander	Boucher	Conyers
Anderson	Brooks	Cooper
Andrews	Broomfield	Costello
Annunzio	Browder	Courter
Anthony	Brown (CO)	Craig
Applegate	Bruce	Crane
Archer	Bryant	Dannemeyer
Aspin	Buechner	Darden
Atkins	Bunning	Davis
Baker	Burton	de la Garza
Ballenger	Bustamante	DeFazio
Barnard	Byron	DeLay
Barton	Callahan	Derrick
Bateman	Campbell (CO)	DeWine
Bates	Carper	Dickinson
Bentley	Chandler	Dicks
Bereuter	Clarke	Dingell
Bevill	Clement	Donnelly
Bilbray	Clinger	Dorgan (ND)
Bilirakis	Coble	Dornan (CA)
Boehlert	Coleman (MO)	Douglas
Boggs	Coleman (TX)	Downey
Borski	Combest	Duncan
Bosco	Conte	Durbin
Dwyer	Lloyd	Rose
Dyson	Long	Rostenkowski
Eckart	Lowery (CA)	Roth
Edwards (CA)	Lowey (NY)	Roukema
Emerson	Lukens, Donald	Russo
English	Machtley	Sabo
Erdreich	Madigan	Saiki
Fawell	Manton	Sangmeister
Fields	Markey	Sarpalius
Fish	Marlenee	Sawyer
Flippo	Martin (NY)	Saxton
Ford (TN)	Martinez	Schaefer
Frenzel	Matsui	Schiff
Frost	Mavroules	Schneider
Gallegly	Mazzoli	Schroeder
Gaydos	McCandless	Schulze
Gejdenson	McCloskey	Schumer
Gephardt	McCollum	Sensenbrenner
Geren	McCrery	Serrano
Gibbons	McCurdy	Sharp
Gillmor	McDade	Shaw
Gilman	McDermott	Shays
Gingrich	McEwen	Shuster
Glickman	McGrath	Sikorski
Gonzalez	McHugh	Sisisky
Goodling	McMillan (NC)	Skaggs
Gordon	McMillen (MD)	Skeen
Goss	McNulty	Skelton
Gradison	Meyers	Slattery
Grandy	Michel	Slaughter (NY)
Grant	Miller (CA)	Slaughter (VA)
Gray	Miller (OH)	Smith (FL)
Green	Miller (WA)	Smith (IA)
Guarini	Mineta	Smith (NE)
Gunderson	Moakley	Smith (NJ)
Hall (OH)	Molinari	Smith (TX)
Hall (TX)	Mollohan	Smith (VT)
Hamilton	Montgomery	Smith, Robert (NH)
Hammerschmidt	Moorhead	Smith, Robert (OR)
Hansen	Morella	Snowe
Harris	Morrison (WA)	Solarz
Hastert	Mrazek	Solomon
Hayes (LA)	Murphy	Spence
Hefley	Murtha	Spratt
Hefner	Myers	Staggers
Henry	Nagle	Stallings
Herger	Natcher	Stangeland
Hertel	Neal (MA)	Stearns
Hiler	Neal (NC)	Stenholm
Hoagland	Nelson	Stump
Hochbrueckner	Nielson	Sundquist
Hopkins	Nowak	Swift
Horton	Oakar	Synar
Hoyer	Oberstar	Tallon
Hubbard	Obey	Tanner
Huckaby	Olin	Tauke
Hughes	Ortiz	Tauzin
Hutto	Owens (UT)	Taylor
Hyde	Oxley	Thomas (GA)
Inhofe	Packard	Thomas (WY)
Jacobs	Pallone	Torres
James	Panetta	Torricelli
Jenkins	Parker	Traficant
Johnson (CT)	Parris	Traxler
Johnson (SD)	Pashayan	Udall
Jones (GA)	Patterson	Unsoeld
Jones (NC)	Paxon	Upton
Kanjorski	Payne (NJ)	Valentine
Kaptur	Payne (VA)	Vander Jagt
Kasich	Penny	Vento
Kennedy	Perkins	Visclosky
Kennelly	Petri	Volkmer
Kildee	Pickett	Walgren
Kleczka	Pickle	Walsh
Kolbe	Porter	Watkins
Kolter	Poshard	Weber
LaFalce	Price	Weldon
Lagomarsino	Pursell	Wheat
Lancaster	Quillen	Whittaker
Lantos	Rahall	Williams
Laughlin	Ravenel	Wilson
Leach (IA)	Regula	Wise
Leath (TX)	Rhodes	Wolf
Lehman (CA)	Richardson	Wolpe
Lent	Ridge	Wyden
Levin (MI)	Rinaldo	Wylie
Lewis (CA)	Ritter	Yatron
Lewis (FL)	Roberts	Young (FL)
Lightfoot	Roe	
Lipinski	Rogers	
Livingston	Ros-Lehtinen	

NOES—58

Ackerman	Berman	Condit
Armey	Bonior	Cox
AuCoin	Campbell (CA)	Coyne
Bartlett	Cardin	Dellums
Beilenson	Carr	Dixon
Bennett	Collins	Dreier
Dymally	Kastenmeier	Scheuer
Espy	Kostmayer	Shumway
Evans	Kyl	Stark
Fascell	Lehman (FL)	Studds
Feighan	Levine (CA)	Towns
Flake	Lewis (GA)	Vucanovich
Foglietta	Luken, Thomas	Walker
Frank	Mfume	Washington
Gekas	Owens (NY)	Waxman
Hancock	Pease	Weiss
Hayes (IL)	Rangel	Whitten
Hunter	Robinson	Yates
Johnston	Roybal	
Jontz	Savage	

ANSWERED "PRESENT"—2

Holloway	Rohrabacher

NOT VOTING—31

Billey	Fazio	Pelosi
Boxer	Ford (MI)	Ray
Brennan	Gallo	Rowland (CT)
Brown (CA)	Hatcher	Rowland (GA)
Chapman	Hawkins	Schuette
Clay	Houghton	Smith, Denny (OR)
Coughlin	Ireland	Stokes
Crockett	Martin (IL)	Thomas (CA)
Early	Mink	Young (AK)
Edwards (OK)	Moody	
Engel	Morrison (CT)	

□ 2102

Mr. PEASE and Mr. BEILENSON changed their vote from "aye" to "no."

Mrs. SCHROEDER changed her vote from "no" to "aye."

Mr. HOLLOWAY changed his vote from "no" to "present."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Chairman, I thank the gentleman from Illinois [Mr. YATES] for this opportunity to engage in a colloquy.

Mr. Chairman, I would like to bring to your attention the Apollo 11 launch umbilical tower, which was used to send the first human to the Moon.

Because of its historical significance, and the previous listing of the tower in the National Registry as nationally significant, it would seem appropriate for the National Park Service to consider making the site a national monument to man's race to the Moon.

Mr. YATES. Mr. Chairman, in reply, let me say that I agree. The Apollo 11 launch umbilica tower is of historical significance. It deserves special consideration and the interpretative education skills that the National Park Service has. I think the National Park Service should study the costs and alternative financing methods, suitability, feasibility, and national significance and appropriate place to erect the launch tower and to establish the Apollo National Monument if one is to be erected.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows: